

Please reply to: **Fremont Office**



January 5, 2010

Via U.S. Mail

Craig Whitenack, Civil Investigator
United States Environmental Protection Agency
Region IX, Southern California Field Office
600 Wilshire Avenue, Suite 1420
Los Angeles, California 90017

Re: EPA CERCLA Section 104(e) Request for Information: Yosemite Creek
Superfund Site (October 15, 2009 - Olympian Oil Co.)

Dear Mr. Whitenack:

This letter responds to the October 15, 2009 request for information ("RFI") of the United States Environmental Protection Agency ("EPA") to Olympian Oil Co. ("Olympian") with regard to the Yosemite Creek Superfund site (the "Site"). At the outset, I would like to point out that your letter was not sent by you to any of the addressees identified in it and that it was not forwarded to me by e-mail by Ms. Jia Yn Chen of Beveridge & Diamond, PC until October 19, 2009. I was subsequently informed by Mr. Nicholas van Aelstyn of Beveridge & Diamond, PC that EPA has agreed to extend the deadline to January 11, 2010.

Subject to both the general and specific objections noted below, and without waiving these or other available objections or privileges, Olympian submits the following in response to the RFI:

By way of background, in response to an investigation by the California Environmental Protection Agency, Department of Toxic Substances Control ("DTSC") in 1992, Olympian reviewed its records and interviewed appropriate individuals and was not able to find any information showing that Olympian ever delivered any drums to the Bay Area Drum site. Olympian notified the DTSC of the same in a letter dated March 19, 1993 (a copy of this letter is enclosed herein). Olympian also submitted to the DTSC two declarations by its employees verifying the same (also enclosed) a few years later.

1234 Union Street
San Francisco, CA 94123
415 563-7200
FAX 415 346-0679

1001 Walnut Avenue, Ste. 200
Fremont, CA 94538
510 790-0900
FAX 510 790-4856

In 1996, Olympian entered into a “De Minimis Buy-Out and Indemnity Agreement Between the Bay Area Drum Ad Hoc PRP Group and Certain De Minimis PRPs.” As you know from Mr. van Aelstyn’s June 30, 2008 letter to Michael Massey of the EPA, the Bay Area Drum Ad Hoc PRPs are providing Olympian with a defense to EPA’s claims with respect to the Yosemite Creek Site. The passage of 17 years since the DTSC’s investigation and 13 years since the De Minimis Buy-Out and Indemnity Agreement ended Olympian’s participation in issues related to the Bay Area Drum site restricts Olympian’s ability to provide information in response to the RFI. It is also noteworthy the Olympian is, at most, a very de minimis PRP and EPA policies and guidelines regarding the same should be considered before requesting Olympian to undertake onerous discovery burdens. Nevertheless, in a good faith effort to comply, Olympian has re-reviewed its files and confirmed that it is not able to find any records to indicate that it ever sent any drums to the Bay Area Drum site.

GENERAL STATEMENTS AND OBJECTIONS

In responding to the RFI, Olympian has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. However, the RFI purports to seek a great deal of information that is not relevant to the Site or alleged contamination at the Site. For example, while we understand the basis of the purported connection between Olympian and the former Bay Area Drum State Superfund Site at 1212 Thomas Avenue in San Francisco, California (hereinafter, the “BAD Site”), certain RFI questions seek information regarding facilities other than the BAD Site, including all facilities in California and all facilities outside California that shipped drums or other containers to any location in the entire state of California. These other facilities throughout California and the United States have no nexus to the Site. Because such questions are not relevant to the Site, they are beyond the scope of EPA’s authority as set forth in Section 104(e)(2)(A) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) (EPA may request information “relevant to . . . [t]he identification, nature, and quantity of materials which have been . . . transported to a . . . facility”).

The RFI defines “COCs” as “any of the contaminants of concern at the Site and includes: lead, zinc, mercury, dichlorodiphenyltrichloroethane (“DDT”), chlordane, dieldrin, and polychlorinated biphenyls (“PCBs”).” However, certain RFI requests also seek information regarding hazardous substances more broadly. These requests go beyond the specific chemicals for which EPA purports to have evidence

of a release or threatened release to the environment at the Site and are not relevant to the Site pursuant to Section 104(e)(2)(A) of CERCLA.

As you know and as noted above, the DTSC conducted an extensive investigation of the BAD Site and Olympian's operations in connection with it. DTSC's investigation included an information request to Olympian and the DTSC files include Olympian's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Thus, the focus of Olympian's identification, review and retrieval of documents has been upon data that has not been previously provided to EPA, DTSC or any other governmental agency that is relevant to the Site. Olympian is unable to locate any such responsive information.

Olympian asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. Olympian asserts all privileges and protections it has regarding the documents and other information sought by EPA, including the attorney-client privilege, the attorney work product doctrine, all privileges and protections related to materials generated in anticipation of litigation, the settlement communication protection, the confidential business information ("CBI") and trade secret protections, and any other privilege or protection available to it under law.

2. Olympian objects to any requirement to produce documents or information already in the possession of a government agency, including but not limited to DTSC, or already in the public domain. As noted above, DTSC conducted an extensive investigation of the BAD Site and Olympian's operations in connection with it. DTSC's investigation included an information request to Olympian and the DTSC files include Olympian's Response to DTSC's information request. EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

3. Olympian objects to Instruction 4 to the extent it seeks to require Olympian, if information responsive to the RFI is not in its possession, custody, or control, to identify any and all persons from whom such information "may be obtained." Olympian is aware of no obligation that it has under Section 104(e) of CERCLA to identify all other persons who may have information responsive to EPA information requests and is not otherwise in a position to identify all such persons who may have such information.

4. Olympian objects to Instruction 5 on the ground that EPA has no authority to impose a continuing obligation on Olympian to supplement these responses. Olympian will, of course, comply with any lawful future requests that are within EPA's authority.

5. Olympian objects to Instruction 6 in that it purports to require Olympian to seek and collect information and documents in the possession, custody or control of individuals not within the custody or control of Olympian. EPA lacks the authority to require Olympian to seek information not in its possession, custody or control.

6. Olympian objects to the RFI's definition of "document" or "documents" in Definition 3 to the extent it extends to documents not in Olympian's possession, custody, or control. Olympian disclaims any responsibility to search for, locate, and provide EPA copies of any documents "known [by Olympian] to exist" but not in Olympian's possession, custody, or control.

7. Olympian objects to the RFI's definition of "Facility" or "Facilities" in Definition 4 because the terms are overbroad to the extent that they extend to facilities with no connection to either the Site or the BAD Site. Moreover, the term "Facilities" as defined in the RFI is confusing and unintelligible as the term is defined as having separate meanings in Definition 4 and Request No. 3.

8. Olympian objects to the definition of "Respondent", "you", "the company", "your" and "your company" in Definition 14 because the terms are overbroad and it is not possible for Olympian to answer questions on behalf of all the persons and entities identified therein.

RESPONSES TO OCTOBER 15, 2009 EPA INFORMATION REQUESTS

1. *Describe generally the nature of the business conducted by Respondent and identify the products manufactured, formulated, or prepared by Respondent throughout its history of operations.*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, unduly burdensome, and not relevant because Olympian did not deliver any drums to the Bay Area Drum Site. Further, Olympian did not manufacture, formulate or prepare any products; it was a distributor of products made by others.

2. *Provide the name (or other identifier) and address of any facilities where Respondent carried out operations between 1940 and 1988 (the "Relevant Time Period") and that:*

- a. ever shipped drums or other containers to the BAD Site for recycling, cleaning, reuse, disposal, or sale.*
- b. are/were located in California (excluding locations where ONLY clerical/office work was performed);*
- c. are/were located outside of California and shipped any drums or other containers to California for recycling, cleaning, reuse, disposal, or sale (for drums and containers that were shipped to California for sale, include in your response only transactions where the drums and containers themselves were an object of the sale, not transactions where the sole object of the sale was useful product contained in a drum or other container).*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, in addition to facilities with a connection to the BAD Site, Request No. 2 purports to also seek information regarding any facility located in California (excluding locations where ONLY clerical/office work was performed) and any facility located outside of California that shipped drums or other containers to any location in California, even to locations other than the BAD Site. These other facilities have no nexus with the BAD Site, and thus this request seeks information that is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Olympian reasserts that it does not have any records showing that it ever made any delivery of any drums to the Bay Area Drum site.

3. *Provide a brief description of the nature of Respondent's operations at each Facility identified in your response to Question 2 (the "Facilities") including:*

- a. the date such operations commenced and concluded; and*
- b. the types of work performed at each location over time, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In particular, but without limiting the generality of the foregoing objection, Olympian objects to the request in (b) that it describe “types of work performed at each location over time” Without an identification by EPA of the types of work it is referring to, it would be virtually impossible, given the broad nature of possible work at various facilities, to describe each and every type of work that was performed at any facility. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, please see response to Request No. 2.

4. For each Facility, describe the types of records regarding the storage, production, purchasing, and use of Substances of Interest (“SOI”) during the Relevant Time Period that still exist and the periods of time covered by each type of record.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome to the extent it seeks to require Olympian to describe “types of records.” Where documents have been provided in response to this RFI, each and every document regarding SOIs is not also “identified” by describing its contents. Olympian further objects to Request No. 4 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, please see response to Request No. 2.

5. Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store one of the COCs (including any substances or wastes containing the COCs) at any of the Facilities? State the factual basis for your response.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between COCs at Olympian's Facilities and the BAD Site, Request No. 5 purports to seek information relating to Olympian's Facilities that is not relevant to contamination at the Site. Please see response to Request No. 2.

6. *If the answer to Question 5 is yes, identify each COC produced, purchased, used, or stored at each Facility.*

RESPONSE: Not applicable. Please see responses to Request Nos. 2 and 5.

7. *If the answer to Question 5 is yes, identify the time period during which each COC was produced, purchased, used, or stored at each Facility.*

RESPONSE: Not applicable. Please see responses to Request Nos. 2 and 5.

8. *If the answer to Question 5 is yes, identify the average annual quantity of each COC produced, purchased, used, or stored at each Facility.*

RESPONSE: Not applicable. Please see responses to Request Nos. 2 and 5.

9. *If the answer to Question 5 is yes, identify the volume of each COC disposed by the Facility annually and describe the method and location of disposal.*

RESPONSE: Not applicable. Please see responses to Request Nos. 2 and 5.

10. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store hydraulic oil or transformer oil at any of the Facilities? State the factual basis for your response to this question.*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between hydraulic fuel or transformer oil at Olympian's Facilities and the BAD Site, Request No. 10 purports to seek information relating to Olympian's Facilities that is not relevant to contamination at the Site. Please see responses to Request Nos. 2 and 5.

11. *If the answer to Question 10 is yes, identify each specific type of hydraulic oil and transformer oil produced, purchased, used, or stored at each Facility.*

RESPONSE: Not applicable. Please see responses to Request Nos. 2, 5 and 10.

12. *If the answer to Question 10 is yes, identify the time period during which each type of hydraulic oil and transformer oil was produced, purchased, used, or stored.*

RESPONSE: Not applicable. Please see responses to Request Nos. 2, 5 and 10.

13. *If the answer to Question 10 is yes, identify the average annual quantity of each type hydraulic oil and transformer oil purchased, produced, used, or stored at each Facility.*

RESPONSE: Not applicable. Please see responses to Request Nos. 2, 5 and 10.

14. *If the answer to Question 10 is yes, identify the volume of each hydraulic oil and transformer oil disposed by the Facility annually and describe the method and location of disposal.*

RESPONSE: Not applicable. Please See responses to Request Nos. 2, 5 and 10.

15. *Provide the following information for each SOI (SOIs include any substance or waste containing the SOI) identified in your responses to Questions 5 and 10:*

- a. *Describe briefly the purpose for which each SOI was used at the Facility. If there was more than one use, describe each use and the time period for each use;*
- b. *Identify the supplier(s) of the SOIs and the time period during which they supplied the SOIs, and provide copies of all contracts, service orders, shipping manifests, invoices, receipts, canceled checks and other documents pertaining to the procurement of the SOI;*
- c. *State whether the SOIs were delivered to the Facility in bulk or in closed containers, and describe any changes in the method of delivery over time;*
- d. *Describe how, where, when, and by whom the containers used to store the SOIs (or in which the SOIs were purchased) were*

cleaned, removed from the Facility, and/or disposed of, and describe any changes in cleaning, removal, or disposal practices over time.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 15 purports to seek information relating to Olympian's Facilities that is not relevant to contamination at the Site. Please see responses to Request Nos. 2, 5 and 10.

16. For each SOI delivered to the Facilities in closed containers, describe the containers, including but not limited to:

- a. the type of container (e.g. 55 gal. drum, tote, etc.);*
- b. whether the containers were new or used; and*
- c. if the containers were used, a description of the prior use of the container.*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 16 purports to seek information relating to Olympian's Facilities that is not relevant to contamination at the Site. See responses to Request Nos. 2, 5, 10 and 15.

17. For each container that Respondent used to store a SOI or in which SOIs were purchased ("Substance-Holding Containers" or "SHCs") that was later removed from the Facility, provide a complete description of where the SHCs were sent and the circumstances under which the SHCs were removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Olympian further objects to Request No. 17 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site.

Additionally, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 17 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Olympian has been unable to locate any records showing that it ever made any delivery to the BAD Site.

18. For each SHC that was removed from the Facility, describe Respondent's contracts, agreements, or other arrangements under which SHCs were removed from the Facility, and identity all parties to each contract, agreement, or other arrangement described. Distinguish between the Relevant Time Period and the time period since 1988.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Olympian has been unable to locate any records showing that it ever made any delivery to the BAD Site.

19. For each SHC, provide a complete explanation regarding the ownership of the SHC prior to delivery, while onsite, and after it was removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request

No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site.

Notwithstanding the foregoing, and without any waiver of its objections, Olympian reasserts that it has been unable to locate any records showing that it ever made any delivery to the BAD Site.

20. Identify all individuals who currently have, and those who have had, responsibility for procurement of Materials at the Facilities. Also provide each individual's job title, duties, dates performing those duties, current position or the date of the individual's resignation, and the nature of the information possessed by each individual concerning Respondent's procurement of Materials.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 20 purports to seek information relating to Olympian's Facilities that is not relevant to contamination at the Site. Olympian further objects to Request No. 20 as it purports to seek information regarding procurement of "Materials" at facilities other than the BAD Site and thus goes beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment.

21. Describe how each type of waste containing any SOIs was collected and stored at the Facilities prior to disposal/recycling/sale/transport, including:

- a. the type of container in which each type of waste was placed/stored;*
- b. how frequently each type of waste was removed from the Facility; Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 21 purports to seek information regarding collection and storage of "any SOIs" at facilities other than the BAD Site. To the extent that EPA seeks information about

facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Please see response to Request No. 2.

22. *Describe the containers used to remove each type of waste containing any SOIs from the Facilities, including but not limited to:*

- a. *the type of container (e.g., 55 gal. drum, dumpster, etc.);*
- b. *the colors of the containers;*
- c. *any distinctive stripes or other markings on those containers;*
- d. *any labels or writing on those containers (including the content of those labels);*
- e. *whether those containers were new or used; and*
- f. *if those containers were used, a description of the prior use of the container;*

Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs." Olympian further objects to Request No. 22 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site. Additionally, Olympian objects to Request No. 22 as it purports to seek information regarding containers used to remove each type of waste containing any SOIs from the Facilities and taken to any other place during any time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Olympian reasserts that it has been unable to locate any records showing that it ever made any delivery to the BAD Site.

23. *For each type of waste generated at the Facilities that contained any of the SOIs, describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling and identify all parties to each contract, agreement, or other arrangement described. State the ownership of waste containers*

as specified under each contract, agreement, or other arrangement described and the ultimate destination or use for such containers. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COC" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs." Olympian further objects to Request No. 23 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site.

Additionally, Olympian objects to Request No. 23 as it purports to seek information regarding waste generated at any Facilities that contained any SOIs and taken to any other place during any time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Please See response to Request No. 22.

24. Identify all individuals who currently have, and those who have had, responsibility for Respondent's environmental matters (including responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes and SHCs). Provide the job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all individuals who currently have, and those who have had, responsibility for Olympian's environmental matters at all of Olympian's Facilities, including those that have no nexus to the BAD Site, is not feasible due to the number of Olympian's locations. Further, Olympian reasserts that it had no records of ever delivering any drum to the Bay Area Drum Site.

25. *Did Respondent ever purchase drums or other containers from a drum recycler or drum reconditioner? If yes, identify the entities or individuals from which Respondent acquired such drums or containers.*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all drum recyclers or drum reconditioners from which Olympian has ever acquired such drums or containers is not feasible due to the number of Olympian's locations. Further, Olympian reasserts that it had no records of ever delivering any drum to the Bay Area Drum Site.

26. *Prior to 1988, did Respondent always keep its waste streams that contained SOIs separate from its other waste streams?*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Olympian further objects to Request No. 26 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site. Further, Olympian reasserts that it had no records of ever delivering any drum to the Bay Area Drum Site.

27. *Identify all removal and remedial actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or comparable state law; all corrective actions conducted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; and all cleanups conducted pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. where (a) one of the COCs was addressed by the cleanup and (b) at which Respondent paid a portion of cleanup costs or performed work. Provide copies of all correspondence between Respondent and any federal or state government agency that (a) identifies a COC and (b) is related to one of the above-mentioned sites.*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request

No. 27 purports to seek information regarding a broad range of removal and remedial actions, corrective actions and cleanups.

Moreover, identifying all such removal and remedial actions is not feasible due to the number of Olympian's locations. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Olympian further objects to Request No. 27 to the extent that EPA is already in possession of the requested documents, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

28. *Provide all records of communication between Respondent and Bay Area Drum Company, Inc.; Meyers Drum Company; A.W. Sorich Bucket and Drum Company; Waymire Drum Company, Inc.; Waymire Drum and Barrel Company, Inc.; Bedini Barrels Inc.; Bedini Steel Drum Corp.; Bedini Drum; or any other person or entity that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California.*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In addition, DTSC conducted an extensive investigation of the BAD Site and Olympian's operations in connection with it. DTSC's files include extensive records concerning the Bay Area Drum Company, Inc. and other persons and entities that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California. Olympian understands that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Olympian has not been able to locate any records of any delivery to the BAD site.

29. *Identify the time periods regarding which Respondent does not have any records regarding the SOIs that were produced, purchased, used, or stored at the Facilities.*

RESPONSE:

In addition to the General Objections set forth above, Olympian objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In responding to the RFI, Olympian has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. Moreover, Olympian understands that EPA is already in possession of DTSC's files regarding

the BAD Site. Olympian is under no further obligation to identify time periods to which these documents do not pertain.

30. Provide copies of all documents containing information responsive to the previous twenty-nine questions and identify the questions to which each document is responsive.

RESPONSE:

Olympian incorporates its objections to Request Nos. 1 through 29. Olympian further objects to Request No. 30 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site. Olympian further objects to Request No. 30 as it purports to seek copies of documents containing information responsive to the previous twenty-nine questions. DTSC conducted an extensive investigation of the BAD Site and Olympian's operations in connection with it. DTSC's investigation included an information request to Olympian and the DTSC files include Olympian's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

We are happy to continue to assist the EPA as appropriate, but as noted throughout, Olympian has not been able to locate any records of any delivery to the BAD site. Any questions the EPA may have regarding the responses to the RFI may be directed to the undersigned.

Very truly yours,

TRUMP, ALIOTO, TRUMP & PRESCOTT, LLP.



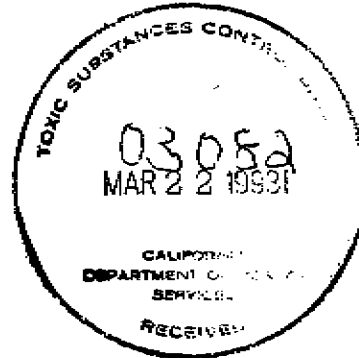
DAPHNE C. LIN

DCL:kp
Enclosures

cc: Nicholas van Aelstyn, Esq.
Michael Massey, Esq.
Client

OLYMPIAN OIL COMPANY

260 MICHELE COURT • SOUTH SAN FRANCISCO, CALIFORNIA 94080-6297
(415) 873-8200 • FAX (415) 871-2264 • TELEX 171513



March 19, 1993

Ms. Monica Gan
STATE OF CALIFORNIA
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, CA 94710-2737

RE: Bay Area Drum Site
1212 Thomas Avenue
San Francisco

Dear Ms. Gan:

This letter is in response to Barbara J. Cook, P.E. letter dated 12/21/93, addressed to the writer.

On 3/8/93, Olympian's representatives reviewed all the records you provided to us at the Department's offices at 700 Heinz Avenue, Suite 200. We found no reference to Olympian Oil Company transactions on any of the documents, which were Bay Area drum ledgers from 1981-1985 and Waymire Drum Company ledgers showing drum receipts.

Additionally, we have been unable to find any documentation or verbal information from Olympian Oil Company's files or personnel concerning Olympian Oil sending drums to the Bay Area Drum site for reconditioning and/or disposal.

If more records become available to the Department, we would appreciate the opportunity to review them.

Thank you for your assistance in this matter.

Sincerely,
Olympian Oil Company

Dan Koch
Environmental/Safety Officer
ret578

1 JOHN V. TRUMP, ESQ. (037283)
AARON M. GUMBINGER, ESQ. (144365)
2 TRUMP, ALIOTO, TRUMP & PRESCOTT
2280 Union Street
3 San Francisco, CA 94123
415-562-7200

4 Attorneys for Respondent
5 OLYMPIAN OIL COMPANY
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8 STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
9 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

10 In the Matter of:)

Docket No. I&SE 95/96-004

11 BAY AREA DRUM SITE)

DECLARATION OF
JOSEPH MCDONALD

12 1212 Thomas Avenue)
13 San Francisco, California)

14 Respondents:)

15 FREUD F. FARLEY, et al.)

16 I, JOSEPH MCDONALD, hereby declare:

17 1. Since approximately 1957 to approximately 1970, I was
18 employed by OLYMPIAN OIL COMPANY ("Olympian") as a Manager of
19 Olympian's Lube/Oil Department. I am personally familiar with the
20 delivery of all oil drums by Olympian during the period of my
21 employment as part of my duties since 1957 included the purchase and
22 delivery of lube/oil drums from and to various oil companies.

23 2. Olympian had a program of returning lube/oil drums with
24 AMSCO, a division of Union Oil, Shell Oil Company, Gulf Oil Company
25 and Cato Oil & Grease Company.

26 3. To my knowledge, Olympian has never made any delivery of
27 lube or oil drums to 1212 Thomas Avenue, the Bay Area Drum Site, nor
28 has Olympian done any business at this site with the exception that

1 Olympian may have purchased reconditioned oil drums from Bay Area
2 Drum Site at 1212 Thomas Avenue, San Francisco, California during
3 the period of my employment.

4 4. Throughout the period of my employment with Olympian,
5 Olympian never stored bulk oil in our plant premises at 35 South
6 Linden Avenue, South San Francisco, California. To my knowledge,
7 Olympian never owned any lubrication or oil drums. These drums were
8 taken by Olympian on consignment from other oil companies which oil
9 companies owned the drums and the contents thereof. These oil
10 companies would arrange for the disposition of the drums and would
11 arrange to have the drums picked up from Olympian's premises by
12 these companies or other firms directed by the owners of the drums.

13 5. If Olympian had made any deliveries of lube or oil drums
14 to 1212 Thomas Avenue during the period of my employment, I would
15 have personal knowledge of any such deliveries.

16 6. I have found no records in Olympian's possession that
17 indicate Olympian made any deliveries of lube or oil drums to 1212
18 Thomas Avenue, the Bay Area Drum Site.

19 I declare under penalty of perjury under the laws of the State
20 of California that the foregoing is true and correct. Executed this
21 ____ day of May 1996 at South San Francisco, California.

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24 JOSEPH MCDONALD
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8 STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
9 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

10 In the Matter of:)	Docket No. I&SE 95/96-004
)	
11 BAY AREA DRUM SITE)	DECLARATION OF
)	<u>DENNIS LOWERY</u>
12 1212 Thomas Avenue)	
San Francisco, California)	
13 Respondents:)	
)	
14 FREUD F. FARLEY, et al.)	
15)	

16 I, DENNIS LOWERY, declare:

17 1. Since September 1, 1968, I have been employed by OLYMPIAN
18 OIL COMPANY ("Olympian") as a Customer Service Representative. I am
19 personally familiar with the delivery of all oil drums by Olympian
20 during the period of my employment as part of my duties since 1968
21 have included the purchase and delivery of oil drums from and to
22 various oil companies.

23 2. Olympian had a program of returning oil drums with AMSCO,
24 a division of Union Oil, Shell Oil Company, Gulf Oil Company, and
25 Cato Oil & Grease.

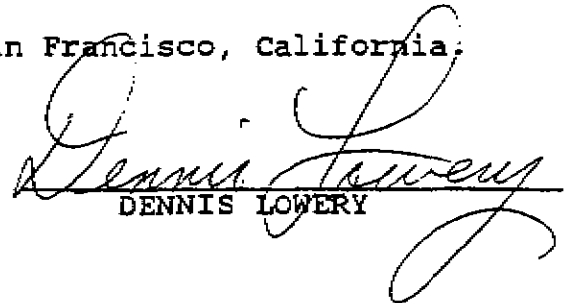
26 3. To the best of my recollection, Olympian has never made
27 any delivery of oil drums to 1212 Thomas Avenue, the Bay Area Drum
28 Site, nor has Olympian done any business at this site with the

1 exception that Olympian may have purchased reconditioned oil drums
2 from Bay Area Drum Site at 1212 Thomas Avenue, San Francisco,
3 California during the period of my employment.

4 4. If Olympian had made any deliveries of oil drums to 1212
5 Thomas Avenue, I would have personal knowledge of any such
6 deliveries during the period of my employment.

7 5. I have found no records in Olympian's possession that
8 indicate Olympian made any deliveries of oil drums to 1212 Thomas
9 Avenue, the Bay Area Drum Site.

10 I declare under penalty of perjury under the laws of the State
11 of California that the foregoing is true and correct. Executed this
12 11th day of April 1996 at South San Francisco, California.

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14 
15 DENNIS LOWERY
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